



Security Council

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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 28 June 2018 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Belgium to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and submits herewith the report of Belgium on the implementation of resolution 2397 (2017) on the Democratic People's Republic of Korea (see annex).



Annex to the note verbale dated 28 June 2018 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

[Original: French]

Report of Belgium on implementation of Security Council resolution 2397 (2017)

Belgium has the honour to transmit to the Security Council Committee established pursuant to resolution 1718 (2006) its report on the implementation of resolution 2397 (2017).

I. Measures adopted by the European Union

Belgium and the European Union member States have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2397 (2017) by adopting the following common measures:

(a) Council Implementing Decision (CFSP) 2018/16 of 8 January 2018 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and entities (travel bans and asset freezes);

(b) Council Implementing Regulation (EU) 2018/12 of 8 January 2018 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Implementing Decision (CFSP) 2018/16;

(c) Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea.

The Council Decision sets out the commitment of the European Union to implement the measures contained in resolution 2397 (2017) in the following manner.

(i) By Council Decision (CFSP) 2017/1860 of 16 October 2017, the European Union had already adopted a complete ban on the export of crude oil, with the exception of humanitarian exports, approved by the Committee in advance on a case-by-case basis. In Council Decision (CFSP) 2018/293, it is further specified that the prohibition applies to the direct and indirect supply of all crude oil to the Democratic People's Republic of Korea, whether or not originating in the territories of the member States, including by means of pipelines, rail lines or vehicles;

(ii) The European Union had already introduced a full prohibition on the export of all refined petroleum products in Council Decision (CFSP) 2017/1860, which also included a provision that the export of refined petroleum products could be authorized by the competent authority of a member State for humanitarian purposes under the conditions mentioned in paragraph 14 of resolution 2375 (2017). In Council Decision (CFSP) 2018/293, it is now specified that the amount of refined petroleum products authorized for export cannot exceed 500,000 barrels per year and that such export include pipelines, rail lines and vehicles;

(iii) It is prohibited to import food and agricultural products, machinery, electrical equipment, earth and stone, including magnesite and magnesite, wood and vessels;

(iv) It is prohibited to acquire fishing rights from the Democratic People's Republic of Korea;

(v) It is prohibited to export all industrial machinery, transportation vehicles, iron, steel and other metals, unless it has been determined by a member State that the provision of spare parts is needed to maintain the safe operation of passenger aircraft of the Democratic People's Republic of Korea;

(vi) It is mandatory to repatriate immediately to the Democratic People's Republic of Korea all nationals of that country earning income in the jurisdiction of a member State, and all government safety oversight attachés of that country monitoring those nationals, by 21 December 2019 at the latest, unless certain exceptions apply, subject to applicable national and international law;

(vii) Member States have the obligation to seize, inspect and impound any vessel in their ports and have the power to seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea. Under certain conditions, the provisions for the impounding of vessels shall cease to apply;

(viii) Member States are obliged to cooperate as promptly as possible with another State which has information that leads it to believe that the Democratic People's Republic of Korea is attempting to export illicit cargo and where that other State requests additional maritime and shipping information;

(ix) It is prohibited to provide insurance or reinsurance services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless the Committee has determined, on a case-by-case basis, that the vessel is engaged in activities exclusively for livelihood or humanitarian purposes;

(x) It is mandatory to de-register any vessel when there are reasonable grounds to believe that it was involved in activities, or the transport of items, prohibited by the Security Council in its various resolution on the Democratic People's Republic of Korea;

(xi) It is prohibited to provide classification services to vessels identified as being involved in prohibited activities, or the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless prior authorization has been granted by the Sanctions Committee on a case-by-case basis;

(xii) It is prohibited to register a vessel that has been de-registered by another State, except as approved in advance by the Committee on a case-by-case basis;

(xiii) The prohibition on exporting new or used vessels had already been introduced in Council Decision (CFSP) 2017/345 of 27 February 2017;

(xiv) It is mandatory to seize and dispose of items whose export is prohibited under resolution 2397 (2017);

(xv) It is prohibited to satisfy any claim in connection with any contract or transaction of which the performance has been affected by the measures provided for in resolution 2397 (2017);

(d) Council Regulation (EU) 2018/285 of 26 February 2018 amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Decision (CFSP) 2018/293.

The above-mentioned Council regulations are binding in their entirety and directly applicable in all States members of the European Union. Under Council Regulation (EU) 2017/1509 of 30 August 2017, member States are required to determine the penalties applicable to infringements of their provisions.

II. National implementing measures

A. Non-proliferation and embargo on arms and related materiel

The following texts provide the legal basis for the implementation of these sanctions and penalties in Belgium:

(a) The decree-law of 6 October 1944 regulating all transfers of goods and assets between Belgium and foreign countries (amended most recently by the law of 28 February 2002);

(b) The law of 11 May 1995 on the implementation of United Nations Security Council decisions;

(c) The law of 13 May 2003 on the implementation of restrictive measures adopted by the Council of the European Union against States and certain individuals and entities.

Moreover, Belgium has legislation, at both the federal level and the level of the competent regional authorities, requiring that an export licence be obtained for any sale, supply, transfer or export of arms or materiel to third countries. This legislation provides the basis for the implementation of the arms embargo against the Democratic People's Republic of Korea and the prohibition on the provision of related services.

The law of 5 August 1991 on the import, export and transit of, and combating the traffic in, arms, munitions and equipment specifically intended for military use or for maintaining order, as well as related technology, as amended by the law of 26 March 2003, forbids any person residing in Belgium from undertaking any arms transaction without a licence issued for that purpose by the Minister of Justice. This law also provides that holders of such licences may not undertake any transaction that would violate an embargo decreed by an international organization of which Belgium is a member (articles 10 and 11).

The same law provides that any request for an export or transit licence must be denied if it is incompatible with the international obligations of Belgium and the commitments it has undertaken to implement the arms embargoes decreed by the United Nations, the Organization for Security and Cooperation in Europe and the European Union (article 4, paragraphs 1 and 2).

The competent regional authorities also have their own strict legal framework in this regard.

On the basis of Security Council resolution 1718 (2006) and subsequent resolutions, Council Decision (CFSP) 2016/849 of 27 May 2016 and Council Regulation (EU) No. 2017/1509, any request for a licence to export arms to the Democratic People's Republic of Korea would be denied.

With regard to the embargo on items, materials, equipment, goods and technology which could contribute to the nuclear-related, ballistic missile-related or

other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea, Belgium adheres to the requirements of Council Regulation (EU) No. 2017/1509, which forbids:

(a) The sale, supply, transfer or export of goods, materials, equipment or technologies which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;

(b) The purchase, import or transport of such items from the Democratic People's Republic of Korea;

(c) The provision of technical assistance, financing and financial assistance related to arms and to goods which could contribute to weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;

(d) The procurement of such services from the Democratic People's Republic of Korea. These prohibitions apply directly to all activities carried out in the European Union and to the nationals of States members of the Union anywhere in the world.

The intangible transfer of technology poses a particular challenge in efforts to combat the proliferation of weapons of mass destruction. To reduce the risk of academic work, specialized training or scientific cooperation being used for proliferation purposes, the Belgian authorities have carried out awareness-raising activities at universities and scientific institutes. These activities provide an opportunity to make stakeholders aware of the various risks of proliferation and to explain export control procedures, particularly those applicable to dual-use products or technology. The Federal Public Service for Justice has also produced a pamphlet on the risks associated with the intangible transfer of technology. In addition, the competent services screen visa applications for connections to specialized teaching or training.

B. Sectoral

The Customs and Excise Administration has established the necessary procedures for proper implementation of the current provisions of the sanctions regime applicable to the Democratic People's Republic of Korea. The import, export and transit of goods and related technology are regulated by the law of 11 September 1962, as amended, which provides for prior authorization in the form of a licensing regime. Violations and attempted violations of this law are penalized in accordance with the general law on customs and excise of 18 July 1977. Compliance with measures prohibiting or restricting imports and exports is also monitored through the Integrated Tariff of the European Union. This is a common system for coding and classifying goods, which details the steps to be taken by parties importing goods to or exporting them from the European Union.

C. Employment of nationals of the Democratic People's Republic of Korea in Belgium

As at 1 June 2018, there were 43 nationals of the Democratic People's Republic of Korea in Belgium. None had a work permit or a professional card in Belgium or otherwise met the conditions for repatriation set out in paragraph 8 of resolution 2397 (2017).

D. Maritime interdiction of cargo vessels

Mechanisms have been established to identify vessels with links to the Democratic People's Republic of Korea so that they may be inspected.

In addition to imposing restrictive measures, the Federal Public Service Mobility and Transport of Belgium has approached Belgian owners of vessels to raise their awareness regarding proper implementation of the sanctions adopted by the Security Council.

E. Designations

With regard to the freeze on financial assets and economic resources and the prohibition on providing funds, article 34 of Council Regulation (EU) No. 2017/1509 is being implemented. It imposes a freeze and a prohibition on providing economic resources to the individuals and entities referred to in paragraph 3 of resolution 2397 (2017). In addition to the freeze instituted under Regulation (EU) No. 2017/1509, article 1/1 of the law of 11 May 1995 — added by the law of 8 January 2016 and in force since 8 January 2018 — allows the Minister of Finance to take interim freeze measures through a ministerial order in the case of additions to the lists of individuals and entities targeted by the Security Council that have not yet been covered under European regulations, in order to prevent any delay in the implementation of such measures.

This is the background to the ministerial order of 9 January 2018 on freezing the assets and other financial means specified under article 1/1 of the law of 11 May 1995, pursuant to the resolutions on restrictive measures against the Democratic People's Republic of Korea, in order to freeze the assets and other financial means of persons, entities or groups added to the lists of persons, entities or groups subject to the restrictive measures against the Democratic People's Republic of Korea under resolution 2397 (2017). To date, no asset freeze proceedings have had to be carried out in Belgium to implement Security Council resolutions concerning the Democratic People's Republic of Korea.

With regard to the restrictions on entry to Belgian territory and on visa issuance, Council Decision (CFSP) 2018/293 updated the list of individuals (in respect of whom the States members of the European Union must take the necessary steps to prevent entry to or transit through their territory), found in annex I of Decision (CFSP) 2016/849, to include or remove the names of the individuals listed in annex I of Security Council resolution 2397 (2017). Individuals subject to a travel ban, whether applied at the level of the United Nations or that of the European Union, have been added to, or, where applicable, deleted from, the database of the Belgian computer program used to process visa applications. If an applicant matches an individual or an alias in the database, the application in question is automatically forwarded to the competent national authority for denial.